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Mr. Bryan May

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● (1530)

[*English*]

The Chair (Mr. Bryan May (Cambridge, Lib.)): Good afternoon, everybody. Pursuant to the order of reference of Monday, January 29, 2018, we are resuming our study of Bill C-65, an act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1.

We're going to start right away, but again I would like to welcome the departmental officials. We have from the Department of Employment and Social Development, Brenda Baxter, director general, workplace directorate, labour program; and Barbara Moran, director general, strategic policy, analysis and workplace, labour program. From the Department of Public Works and Government Services, we have Charles Bernard, director general, portfolio and government affairs. Welcome to all three of you again, and thank you for being here.

We're going to get right into it. We are on NDP-9.

Is there any discussion?

MP Trudel.

[*Translation*]

Ms. Karine Trudel (Jonquière, NDP): Good afternoon, everyone.

I am sorry that I could not be at Monday's meeting of the committee. The leader of my party was in my constituency. I know that my colleague Ms. Quach did a good job.

The NDP is proposing an amendment to Bill C-65—

[*English*]

The Chair: Excuse me. I'm sorry. Because we have so many amendments, you can read the amendment if you wish, but it's not necessary.

[*Translation*]

Ms. Karine Trudel: Okay, I will just explain it.

With amendment NDP-9, we want local and policy health and safety committees and representatives to be able to take part in the investigation process.

[*English*]

The Chair: Is there any further discussion on amendment NDP-9?

MP Damoff, please.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you, Chair.

We can't support this because there's a need to maintain privacy. We understand the importance of the workplace health and safety committees and the good work they do, and they will be involved in other parts of the process. However, if if someone is coming forward with a complaint, they may not want it to go to a committee. They may want to ensure that their privacy is maintained, and having it shared with a workplace committee....

I know there's this amendment, as well as some other ones that you have that are dealing with this. We won't be supporting it for that reason.

The Chair: Is there any further discussion?

Monsieur Blaney.

[*Translation*]

Hon. Steven Blaney (Bellechasse—Les Etchemins—Lévis, CPC): Could I ask for a little clarification?

We are discussing amendment NDP-9, on page 19, are we not?

[*English*]

The Chair: Correct.

[*Translation*]

Hon. Steven Blaney: Okay.

[*English*]

The Chair: I believe so, yes.

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: We have amendment LIB-5.

[*Translation*]

Mrs. Mona Fortier (Ottawa—Vanier, Lib.): This amendment reflects the decision we made yesterday. Between the words "harassment" and "violence", it should read "and" not "or". We want it to be consistent.

[*English*]

The Chair: Okay. Is there any further discussion?

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We have CPC-5.

Mr. Blaney.

● (1535)

[*Translation*]

Hon. Steven Blaney: This is an amendment proposed by our colleague Rosemarie Falk. Essentially, the amendment is designed to ensure that investigations will be completed in a reasonable time. As we saw at the last meeting, the department is not involved in investigations. It must make sure that the process is observed. The goal of this amendment is to establish benchmarks.

Our proposal is to add to the following subsections:

(4.1) The persons who investigate the complaint shall complete the investigation no later than three months after the day on which the complaint has been referred to them.

(4.2) The employee may extend the investigation by no more than 30 days if he or she is of the opinion that more time is required to complete the investigation. The employee may extend the investigation period more than once.

The deadline would be three months and there would be a degree of flexibility in how the process unfolds.

[*English*]

The Chair: Thank you.

Is there anything further?

Mona.

[*Translation*]

Mrs. Mona Fortier: I would like to know where in the testimony, the importance of setting deadlines was demonstrated. I am trying to understand on what testimony you are basing your proposal.

Hon. Steven Blaney: That is a good question. I recall that some witnesses said that they would like benchmarks to be established so that the process did not go on and on unduly. Those witnesses said that it was important not to let the process go on for ever. That is why we proposed this amendment.

Mrs. Mona Fortier: I would like to know what the officials here think about it.

Could you tell us whether, in your opinion, it is necessary to set deadlines or whether it would be preferable to keep some degree of flexibility. Is that kind of approach acceptable in a bill?

[*English*]

Ms. Barbara Moran (Director General, Strategic Policy, Analysis and Workplace, Labour Program, Department of Employment and Social Development): Thank you for the question.

There are a few things to consider in looking at timelines. You need to look at the totality of the federally regulated sector. You have to think about whether timelines would be practical if you're on a ship, for example, when they're at sea for long periods of time. I think that's why our recommendation would be to set out specific timelines where appropriate through the regulations. The intention is to set out certain timelines through the regulatory process.

For example, you could put a timeline for an employer to respond within, upon its being made aware of an issue of harassment and violence. Through the regulations you could consult with all the parties to find out what would make sense in terms of a timeline and, frankly, to discuss with all the parties where you may need more flexibility because of the very different types of employers you have.

The Chair: Thank you.

Ms. Harder.

Ms. Rachael Harder (Lethbridge, CPC): Thank you, Chair.

In the circumstances, an individual comes forward who has a concern with regard to conduct or violence in the workplace. If that process of investigation is allowed to go on for an infinite amount of time, that individual will simply be revictimized, or the potential is there for that to happen. They're not only victimized or acted against by someone within their workplace, but then also by the system itself that has been put into place to protect them. There's no mandated time here. If an investigation isn't done for a year, two years, or three years, that individual will be sitting there waiting for this process to take place. As a result, if that process doesn't actually wrap up within a set amount of time, then that person is in fact victimized by the system or policy that has been put in place to protect them.

It would seem commonsensical, I suppose you could say, to put a time period in place during which, or by which, the investigation has to be wrapped up in order to protect the person who is coming forward with a concern. They need to know that the investigation will be carried out in a timely fashion and that a conclusion will be reached promptly.

The Chair: Thank you.

Mr. Blaney.

[*Translation*]

Hon. Steven Blaney: Essentially, I agree that a lot of deadlines can be included in the regulations. As the independent investigation is at the heart of the bill, it seems appropriate to us to include it in the legislation. It is an important indicator. As Ms. Harder has just said, we want to avoid victimizing complainants again.

● (1540)

[*English*]

The Chair: MP Fortier.

[*Translation*]

Mrs. Mona Fortier: Despite hearing all the explanations, I will not be supporting this amendment.

I think we have to give ourselves some flexibility. After consulting with employers, unions and other partners, we have to make sure that the regulations give them the flexibility they need to get the processes under way easily.

[*English*]

The Chair: Thank you.

MP Damoff.

Ms. Pam Damoff: Thank you, Chair.

I think it's important to remember that it's about the quality of the investigation, not just getting it done quickly. Certainly no one wants to leave someone hanging for an extended period of time. You also want to make sure that the investigation is done well and thoroughly.

We won't be supporting the amendment.

The Chair: We'll have MP Harder and then MP Trudel.

Ms. Rachael Harder: Thank you.

What we're saying, then, is that we're going to allow this process to be open. It can take an infinite amount of time. How does that defend the person who's been victimized? How does that create a system of safety for that person?

When we had witnesses come forward, this was one of their biggest concerns. They want a system that will allow a safe haven for them to come forward with their stories, and allow them to know that action is going to be taken on their behalf. If you're not going to put teeth in it, then there's no point to this legislation because, at the end of the day, that's the system we have right now, a system where there are very few accountability measures in place.

So, individuals come forward. They have concerns. They express them, which is an incredibly vulnerable thing to do, an incredibly brave thing to do, and then there's a system that's purposely situated to fail them. That investigation can go on for months, years, or decades because there's no timeline in place for when that actually has to be concluded and when that report has to be submitted.

Those are empty words, then, from this government in terms of protecting victims and wanting to take a stand for them. That's just simply not true if you don't put the accountability mechanisms in place. One very simple way that the accountability mechanism can be put in place is by offering a timeline to victims. It's the least we can do to defend them.

The Chair: MP Trudel.

Then we'll have MP Damoff and MP Fortier.

[*Translation*]

Ms. Karine Trudel: I would like to propose a subamendment.

In certain cases, a three-month deadline could rush the investigations, and they could end up with conclusions that are too hasty. Employees alone cannot estimate the timing of an investigation. They do not have the expertise or the objectivity.

My proposal would, in subsection (4.1), replace "shall complete the investigation no later than three months" with "shall complete the investigation according to the deadline established in the regulations". That would allow for more consultations in order to set a meaningful deadline.

[*English*]

The Chair: MP Damoff.

Ms. Pam Damoff: Just before I go to the officials, I want to be clear. This is groundbreaking legislation that is being put in place, and it's strengthening the laws that—

A voice: Oh, oh!

Ms. Pam Damoff: Mr. Chair, can we not have some respect at the table, please?

A voice: What's that?

The Chair: Continue.

Ms. Pam Damoff: It's strengthening the laws that are currently in place, and it will protect employees who are working in federally regulated organizations and in industry. Can the officials please clarify whether employees will be put at risk if we don't include this proposed subsection?

Ms. Barbara Moran: The intention, absolutely, is to put in place timelines through the regulations. I think something to note—and it was the first point I made—is that part of the purpose in putting them in regulations is so that you can truly reflect the range of different workplaces that we have: ships, air, remote locations, those types of things.

The other thing we need to think about through the regulations is where there are extenuating circumstances that would need to be reflected. In some cases, a specific timeline may not make sense.

Finally, we intend to put forward proposed regulations for a timeline by which an employer needs to respond, a timeline for the appointment of a competent person, timelines for investigations, and so on and so forth. Certainly, through the regulatory process there would be timelines put in place.

● (1545)

Ms. Pam Damoff: Those regulations will be available to us to see when they're put in place, right?

Ms. Brenda Baxter (Director General, Workplace Directorate, Labour Program, Department of Employment and Social Development): Yes. After consultation, a regulatory passage is drafted, and it comes through the Treasury Board committee for approval. It then is available for public comment with regard to those regulations. Those comments are considered, and the regulations are revised based on those comments. They go through the Treasury Board committee again for approval before they come into force.

Ms. Pam Damoff: So, there will be a timeline in place then, and it will be available for people to see.

Thank you.

The Chair: MP Fortier, and then MP Blaney.

Mrs. Mona Fortier: I have nothing else to say.

The Chair: Nothing else? Okay.

MP Blaney.

[*Translation*]

Hon. Steven Blaney: The amendment seems reasonable to me, because it supports exactly the argument that my colleagues opposite have put forward, that the deadline could be fixed following consultations held by the department.

Essentially, we are transforming a possibility into a certainty. The legislation is specifying that there actually is a final deadline for investigations, to be established by regulations following consultations held by the officials. In that way, we can be sure that there will be a fixed deadline and there will be flexibility as the regulations are prepared.

So I am in favour of the amendment that the New Democrats are proposing. I feel that it is a way to make the amendment more attractive in the eyes of the government and that it basically reflects what the officials from the department of labour have presented.

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you.

We need to vote first on the subamendment. Beforehand, though, I'm going to ask the clerk to clarify one thing.

[*Translation*]

Mr. Olivier Champagne (Legislative Clerk): Before the question is called, and given that members of the committee do not have the paper version of the subamendment, I would like to point out that the word "délai" is in the singular. So it would be "terminent celle-ci conformément au délai butoir fixé par règlement".

[*English*]

The Chair: Okay, we're good.

[*Translation*]

Hon. Steven Blaney: I would like to clarify something.

The subamendment is for the subsection to read, "Les personnes chargées de l'enquête terminent celle-ci conformément au délai butoir fixé par la réglementation". Is that correct?

Mr. Olivier Champagne: It is actually "fixé par règlement".

Hon. Steven Blaney: Great. That's fine. I will support the subamendment.

[*English*]

The Chair: All those in favour of the subamendment please signify.

(Subamendment negatived)

The Chair: All those in favour of amendment CPC-5 please signify.

[*Translation*]

Hon. Steven Blaney: Is it too late to ask for a recorded vote, Mr. Chair?

[*English*]

I'd like a recorded vote.

The Chair: All right, but try to get it sooner next time.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: We are on amendment NDP-10.

MP Trudel, do you wish to discuss it?

[*Translation*]

Ms. Karine Trudel: Yes.

Our proposed amendment is intended to ensure that the investigation can begin as soon as the complaint is made, in order to avoid re-victimization. If the objective of Bill C-65 really is to improve workplace conditions and the working climate, it must at least be amended so that the investigation begins a maximum of 14 days after the complaint is received, in order to assist the victims.

[*English*]

The Chair: Thank you.

Is there any further discussion?

MP Blaney.

[*Translation*]

Hon. Steven Blaney: I want to tell you that we are going to support this amendment because, once again, we consider that it helps to protect victims of harassment by imposing reasonable deadlines. I intend to support this amendment.

[*English*]

The Chair: Is there any further discussion?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: We are on amendment NDP-11.

Is there any discussion?

Madame Trudel.

● (1550)

[*Translation*]

Ms. Karine Trudel: This amendment proposes a general, non-restrictive framework that reflects Canada's national diversity in choosing investigators. The goal is to allow for an investigation that is fairer and more open-minded, but above all, one that is free of bias and able to earn the victims' trust. It is important for that to be in Bill C-65.

[*English*]

The Chair: Thank you.

Is there any further discussion?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: We move on to amendment NDP-12.

Is there any discussion?

Madame Trudel.

[*Translation*]

Ms. Karine Trudel: According to the current wording of the bill, the designated person conducts an investigation, drafts a report on the incident, and makes recommendations for the workplace. That is where the problems arise. This is why the NDP has proposed this amendment.

[*English*]

The Chair: Thank you.

Mr. Blaney.

[*Translation*]

Hon. Steven Blaney: In the original iteration of the bill, it is as if the government did not consider the people involved in the workplace, workplace committees, for example. They have an important role in prevention. We know that prevention is one of the pillars that the Minister favours in terms of harassment. We consider that it is very important to inform people in the workplace about all the decisions made, in order for the process to be open and transparent. So we intend to support the amendment that the New Democrats have proposed.

[*English*]

The Chair: Thank you.

Give me one moment to confer with the clerk. I'm sorry, I need to check on a technicality.

Monsieur Blaney.

[*Translation*]

Hon. Steven Blaney: I would like to add that the New Democrats' proposal allows information and the results of the investigation to be made public and published. This is extremely important. In addition, the proposal in the second paragraph is intended to protect privacy. So this is a really balanced amendment: the privacy of the complainants is protected and, at the same time, the people in the workplace are informed about what happened, as well as about the results of the investigation. My colleague has submitted a very good proposal.

[*English*]

The Chair: Thank you.

Is there any further discussion?

MP Damoff.

Ms. Pam Damoff: Briefly, again it goes to the privacy issue. I know Mr. Blaney mentioned that it was dealt with, but while the employee can have certain information deleted, there still would be a record that they had put in a complaint.

Could the officials clarify if regulations will include something about what is provided to workplace committees and that type of process and their role in this?

Ms. Barbara Moran: Yes. The intention is, through regulations, to be quite explicit in terms of the role of the workplace committee. Part of that is to make sure that there isn't a misunderstanding in the reading of this legislation that the intention would be to cut workplace committees or health and safety representatives completely out of this issue. Indeed, they have a huge role to play.

It will set out things such as their involvement with regard to the crafting of a policy on harassment and violence. It will very clearly set out what information they will be able to get—for example, the report of the competent person. They might not be able to get all of it because of the privacy of information, but certainly they can and should have access to the recommendations that relate in particular to the need for cultural change.

What the regulations are going to do is really very clearly spell out exactly where the workplace committees need to be involved.

● (1555)

Ms. Pam Damoff: What are the risks if workplace committees themselves are included in the legislation, especially if you're looking at a smaller workplace?

Ms. Barbara Moran: One of the things we heard in the consultations that we undertook was a lot of concern about the protection of personal information. A number of experts came forward indicating that they were concerned that people are not now coming forward and won't in the future with complaints about harassment and violence if they feel that they are going to be the subject of gossip. With a range of people in the committee, when something is being dealt with through a committee, that's a whole lot of people knowing your personal information. They suggested to us that we needed to find a way to be able to ensure that this information is protected.

The exclusion of the workplace committees is really just for the investigation of the incident itself. There's nothing preventing an individual who has experienced harassment and violence from seeking support from a member of their committee, from seeking support from their union, any of those. That's up to the person who has experienced the incident, but really the goal in this is to involve as few people as possible in the very specific investigation of that particular incident.

Ms. Pam Damoff: That's not to say that the workplace committee would share the information or would gossip, but there's a perception on the part of the employee that it could happen, so it makes them uncomfortable. Workplace committees play a really vital role within organizations, but there's a perception that other people would know about it. It's not necessarily that the committee has ever done anything they shouldn't have done. It's more a perception of what could happen in sharing the information with more people.

Ms. Barbara Moran: That's absolutely correct. I'm sure the committee members would not share it, but it's that perception, and it's for that individual. They would not necessarily feel comfortable coming forward to a committee with their issue.

The Chair: Thank you.

MP Blaney.

[*Translation*]

Hon. Steven Blaney: Thank you, Mr. Chair.

I have listened to the conversation carefully and some things need to be borne in mind. When a case of harassment occurs in a workplace, it is because the workplace is unhealthy, even though only one person is the target. In the investigation process, investigators are going to question a number of people involved in the situation. So information about the harassment situation is already going around the organization, even before the results of the investigation are revealed.

What is interesting about the New Democrats' proposal is that it includes a degree of protection for the complainants' privacy, in terms of the information disclosed, whatever the result of the investigation, whether or not it finds that harassment has taken place. The proposal is structured in such a way as to protect privacy, whereas the current bill has no provisions to protect complainants from disclosures.

Some features can be added into the regulations, but, as a lawmaker, I feel that it is our responsibility to protect the privacy of complainants. That is what Ms. Trudel's amendment allows.

[*English*]

The Chair: Thank you, sir.

Is there any further discussion on NDP-12?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: LIB-6 has actually already been adopted. On Monday we adopted LIB-4, and as a result LIB-6 was included in that. Are there any questions about that?

Mr. Blaney.

[*Translation*]

Hon. Steven Blaney: I would like to make a comment, Mr. Chair.

Since the beginning of this second working meeting, I have been noticing that a number of amendments are rejected by the Liberals when they are not the ones proposing them.

Be that as it may, I have to say that I intend to support this Liberal amendment because it gives more teeth to the bill. In this particular case, it protects complainants who might have had to complain about their immediate supervisors. This amendment is therefore valid.

I hope that my colleagues opposite will judge proposals on their merits this afternoon, that is to say by determining whether the proposals can improve the bill, and not because of the side of the table from which they came.

We will be supporting this amendment.

Thank you.

● (1600)

[*English*]

The Chair: Thank you, sir.

Is there any discussion on LIB-7.

Mona.

[*Translation*]

Mrs. Mona Fortier: Once again, this reflects a decision we made on Monday. I hope that the proposal can be adopted.

[*English*]

The Chair: Very good.

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: On NDP-13, is there discussion?

MP Trudel.

[*Translation*]

Ms. Karine Trudel: I would like to withdraw this amendment, please.

[*English*]

The Chair: It has been withdrawn. Thank you.

Is there discussion on CPC-6?

Mr. Blaney.

[*Translation*]

Hon. Steven Blaney: Mr. Chair, this time, I hope that the government will have the opportunity to demonstrate its desire to give the bill more teeth and to ensure that, pursuant to the legislative provisions we are putting in place, the people who start a complaint process will be able to expect some results. I am talking about results in terms of the recommendations to be issued during the process, whether they are about mediation or about an investigation to be conducted by an independent investigator, but also about the deadlines involved. That is why we are bringing back this amendment. We know how important it is.

As we all know, the bill also applies to political staff as well as to federally regulated companies. Everyone should have fair treatment, meaning in a timely fashion. Clearly, some deadlines can be set by regulation, but I would be open to an amendment to the effect that the deadline be set in the regulations, but that it take the consultations into account. However, it is important that, as lawmakers, we indicate clearly that the approach in this bill is a serious one and we want it to produce results. That is why we want the deadlines to be specified, especially with regard to investigations, when one takes place.

[*English*]

The Chair: Thank you.

We have Mona, then Rachael.

[*Translation*]

Mrs. Mona Fortier: Thank you for explaining the proposal in more detail.

I would like to know if you have any data or expert opinion to support to the idea of such a restrictive deadline. If we cannot provide investigators and the process with a degree of flexibility, it can take away some of the bill's bite.

I would like to know if the officials have any data to show that this would strengthen the bill.

[*English*]

The Chair: I'm to go to Rachael, but if you would like to answer that question, sir....

Afterwards?

Rachael.

Ms. Rachael Harder: You will recall that with regard to the last amendment put forward of a similar nature, having to do with the investigation, an amendment was brought forward by the NDP to open that up to a timeline that would be within regulation. This would allow your question to be answered. You weren't willing to entertain that proposal, and so I'm not sure that your question is being asked with sincerity in wanting to actually support the premise of this bill.

I would invite the officials to answer the question regarding the importance of a timeline and why we might want to consider putting limitations in place to stand up for the victim and make sure that he or she is granted a robust report and that an investigation be completed within a timeline. Is that important? Should we be considering this within this legislation?

● (1605)

The Chair: Before we continue, can I please take a moment to ask that we try to keep the slings and arrows concerning someone's intent to a minimum? I find it difficult to suggest that you would necessarily know the intent of the question, but—

Hon. Steven Blaney: On a point of order—

The Chair: Please just let me finish, and then I'll give it to you, Mr. Blaney.

We have all worked really closely on this for quite some time and have kept those jabs to a minimum. I'm asking everybody on all sides to respect that tradition of the last couple of months.

Mr. Blaney, you have a point of order.

Hon. Steven Blaney: Yes, on a point of order, Mr. Chairman, I appreciate your intervention in the discussion, but I feel that you are raising something that is an issue of debate and not an issue of procedure. In that regard, I can add that we appreciate that the government is supportive of some amendments, but we feel that we should go as far as we can, and there are serious issues.

I would add that I could have said exactly what my colleague said, that we just tabled and are ready to move the very same amendment to have the exact day set by the regulator. We feel that it's very important to send a signal that a delay is required.

I would certainly like to hear the answer to the question asked by my colleague of the civil servants before you raised this issue.

The Chair: There is no question that debate is necessary to ensure that we have the best possible bill. My only request is to keep it civil and move forward in a timely fashion.

Ms. Moran.

Ms. Barbara Moran: Thank you.

There are a few points I would note on the amendment. The way it's crafted, those timelines would apply to any contravention under part II; it's not just for harassment and violence. One thing, therefore, that needs to be considered when considering timelines is how long it can take to undertake an investigation. For example, prosecutions can sometimes take upwards of two years. Because part II covers a gamut of occupational health and safety issues, setting a timeline would, frankly, vary according to what type of incident you're investigating.

That would be one of the first points.

In terms of harassment and violence specifically, what Bill C-65 proposes is a new process. Currently sexual harassment is in part III; thus we, as the labour program, have very limited abilities to basically investigate whether somebody has a policy. What Bill C-65 does is bring the labour program into a much bigger role potentially, if there is a complaint that the process hasn't been followed.

Right now, we don't know how long those investigations will take because we haven't done one before. We need to get some data. If the legislation passes and once it comes into force, it's going to take us a little bit of time to figure out how long it takes us to do such investigations.

The Chair: We have Monsieur Blaney, and then Ms. Harder and Mr. Nater.

[*Translation*]

Hon. Steven Blaney: Thank you.

I think the answer will be along exactly the same lines as the comment my colleague made.

As the mover, can I amend the amendment, or do I have to propose a subamendment, Mr. Chair?

I will propose the same subamendment as the one already proposed, but I will accept the comments made. So it would then say, "Le ministre termine l'enquête conformément aux délais établis par la réglementation", specifying that the word "délais" would be in the plural.

Is that acceptable, Mr. Clerk?

Mr. Olivier Champagne: You cannot move a subamendment to your own amendment.

Hon. Steven Blaney: The amendment was proposed by Ms. Falk. I am not the mover.

Mr. Olivier Champagne: She submitted it for distribution to the committee, but you are the one proposing it at the moment.

Hon. Steven Blaney: In that case, can I amend my own amendment without making a subamendment?

Mr. Olivier Champagne: If everyone agrees, I see no obstacle.

Hon. Steven Blaney: Mr. Chair, I ask for unanimous consent so that, instead of talking about a three-month deadline, we indicate that the deadlines would be established in the regulations.

I emphasize that the word "délais" would be in the plural, because there can be several kinds of investigations.

[*English*]

The Chair: Could you say it one more time?

[*Translation*]

Hon. Steven Blaney: This is what we would say, "Le ministre termine l'enquête conformément aux délais établis par la réglementation suivant la date à laquelle la plainte lui a été renvoyée".

By putting the word "délais" in the plural, we give ourselves the manoeuvring room we need to accommodate situations that might arise during the investigations.

● (1610)

[*English*]

The Chair: Madame Harder.

Ms. Rachael Harder: Again, could the officials give us some feedback on whether this is a good idea? Before, you commented that timelines were a good thing, that they could help bring structure, stability, and accountability to the policy that's in front of us. With regard to the amendment that's being put forward now, would you say the same thing?

Would it be beneficial, then, to put forward a timeline pursuant to regulation, taking into consideration, of course, the point you just made that sometimes it can take a year or two for a proper investigation to be completed? Understanding that, could we put forward a call for the regulations to be considered? Is that a good idea? Does that add teeth to this policy? Does it help it?

Ms. Barbara Moran: First, we'd need to think again about whether it is the intention of the committee to have it apply broadly to all of part II and all of occupational health and safety, because the range of different types of investigations that we undertake in that regard is really broad. Are you looking at it being narrowed to harassment and violence, or are you thinking more broadly?

Ms. Rachael Harder: Mr. Chair, can I answer that?

The Chair: Yes, you can.

Ms. Rachael Harder: I suppose, then, we're asking two things. One, should we, or could we, be looking to amend this section to just apply to cases having to do with harassment and violence? We could amend it in that direction to say that it is pursuant to, let's say, a three-month time frame, or further amend it to say that it's pursuant to a time frame dictated by the regulation. That would be one direction.

The other direction that we could go is to say that it applies to all of part II and it simply comes under the regulatory time frame.

I would be looking to you, if I may, for some recommendations.

Ms. Barbara Moran: With the indulgence of the committee, I'd need to talk to the officials behind me. I need their advice on how it would fit within this legislation. I can only speak broadly from a policy point of view.

Can I take a few minutes?

The Chair: Yes, please do.

Ms. Rachael Harder: Thank you.

The Chair: We'll quickly suspend for two minutes, please.

● (1610)

(Pause)

● (1615)

The Chair: We will reconvene here.

Ms. Moran, you have the floor.

Ms. Barbara Moran: Thank you, and thanks for giving me the time to talk to the officials.

I have a couple of things to note in response to the question that I was asked. Just so that we understand the amendment and the subamendment that are being considered, these are timelines that would potentially apply to the investigation by the labour program, not to the investigation by the competent person or that type of thing. It's strictly the labour program investigation. That's what this amendment is about.

Ms. Rachael Harder: Okay.

Ms. Barbara Moran: Again, as I mentioned, the way it's currently crafted, it would apply to all of part II. In response to the question about whether our advice would be to narrow it, if you were to contemplate this, the answer is yes. Just because of the breadth of different types of investigations the labour program already does under part II, if the intention were to move forward with something like this, we would suggest that you think about narrowing it to harassment and violence.

The other thing I would note, too, is that if it's the committee's desire to put in place a reg-making power, if you will, to move forward with regulations that would prescribe a timeline by which the labour program needs to complete an investigation, right now we don't know how long it would take us to do these investigations because we haven't done them before.

If there were a desire to do regulations, we wouldn't be in a position to know what that timeline would be, not even through the regulatory consultation phase. We wouldn't be in a situation where we had enough data to be able to set a reasonable timeline until we had been operating for awhile. It would be a regulation that we wouldn't actually be able to put in place for a number of years, until we had the data to know how long it took us to do these types of investigations.

The last point I'll make in response to the amendment that's set out is that the employee would be able to extend the investigation period, and that seems to be the only way that the investigation period could be extended. That might be a little bit problematic because, if, for good reason, we as a department aren't able to complete the investigation within a period of time, leaving it to just the employee to be able to extend it could create operational problems for us.

The Chair: Thank you.

It's Mr. Nater and then Mr. Blaney.

Mr. John Nater (Perth—Wellington, CPC): Thank you, Mr. Chair.

I have to admit that this isn't my normal committee, so please bear with me. I'm certainly not an expert on the regulatory process, but I would seek some clarification from the officials. In terms of the regulatory process that was mentioned earlier, you mentioned it would go through Treasury Board for approval. Is this different from going through *Canada Gazette*, part I and *Canada Gazette*, part II?

Ms. Brenda Baxter: It's exactly the same. You go to the Treasury Board committee for approval to publish in *Canada Gazette* , part I. Then there's a public comment period. Those comments are received by the program. We consider those comments, look at what adjustments would need to be made to the draft regulations, and go back to the Treasury Board committee for approval of any changes. Then they're published in *Canada Gazette*, part II, which brings them into force.

● (1620)

Mr. John Nater: If you were to propose amendments on the day this came into force, just hypothetically, how long would you envision that process taking?

Ms. Brenda Baxter: The entire regulatory process? It depends on the complexity of each set of regulations. We have to do consultations, so we would expect that the regulations could be published in the *Canada Gazette* by the fall of 2019.

Mr. John Nater: Has the department prepared any draft regulations at this point?

Ms. Brenda Baxter: No. What we would be doing at this point is consulting with various different stakeholders with regard to the various different components that we would have to have built regulations on.

Mr. John Nater: How long do you expect that consultation to take?

Ms. Brenda Baxter: We've envisioned a three-part consultation. There would be round tables with different stakeholders across the country. We would then follow that by a sort of WebEx session for additional input from stakeholders. We would publish a consultation paper and get written feedback from stakeholders. Based on that information, we'd have to look at whether we have sufficient information to move forward with the detailed regulations or whether we'd actually have to go out with a second round of consultations focused on the specifics of certain components of the regulations.

The Chair: Thank you.

Mr. John Nater: The best case scenario is that this would happen a few years down the road then, in terms of a final regulation.

Ms. Brenda Baxter: The fall of 2019 is our target.

The Chair: Thank you.

Monsieur Blaney.

Hon. Steven Blaney: Thank you, Mr. Chair. I only have two questions.

You have clarified that this amendment relates to investigations by the labour program; is that correct?

Ms. Barbara Moran: Yes.

Hon. Steven Blaney: Can you tell me by what process this investigation is happening and who is conducting it, please?

Ms. Barbara Moran: The way it's set out in the legislation is that if an employee who has brought forward a complaint to the employer about harassment and violence feels, anywhere along the process, that the process hasn't been followed by the employer—for example, the employer did not respond to the complaint, did not appoint a competent person, or anything like that—then the individual can complain to the labour program.

If they bring it to the labour program, we'll conduct an investigation. It could even be that an employee complains that the employer doesn't have a policy for harassment and violence, for example. That would be something else they could bring to us.

Hon. Steven Blaney: The investigation by the labour program, then, would be to ensure whether or not the process has been followed, but you would not conduct an investigation on the specifics of that case. Is that correct?

Ms. Barbara Moran: That's correct.

Hon. Steven Blaney: I tried to achieve this in my amendment CPC-4, which was unfortunately defeated in the last amendment. What you're telling me just gives me one more good reason to put in a delay, because now we have a person who has gone through a process with his employer and feels that it was flawed; now he's turning to the government, and gee, we need to have a delay to get a result.

Is it correct that you suggested that at least we could narrow this amendment to the case of harassment and violence? Did I hear you well when you suggested—it was Rachael who had spoken—that this amendment could be narrowed to harassment and violence?

Ms. Barbara Moran: I think it was in reference to proposed subsection 127.1(9.3) and in response to the question about whether or not our advice would be, if you were to move forward with this, to have it apply to all of part II or to narrow it to harassment and violence.

My suggestion is that you would want to consider narrowing it—

Hon. Steven Blaney: Yes.

Ms. Barbara Moran: —just because of the breadth of the various incidents that are dealt with under part II.

Hon. Steven Blaney: Mr. Chair, with the support of this committee I want to narrow this amendment at the end to add "for harassment and violence complaints." I thank our expert for the explanation, but I feel....

Mr. Chair, can you imagine, when you have gone through a process with your employer, feeling so frustrated that you have to turn to the labour department? The least this person can expect is to have a reasonable delay that would be set in the regulations. Of course, they will have to figure it out, but it would be three months for sure; it might be six months. But if it's 10 years, then we have a big problem with harassment in this country and in dealing with it seriously.

With the support of other colleagues, I want to narrow this amendment to apply to harassment and violence complaints. Again I recall that we suggested that this delay be fixed by regulation and that we not fix it today.

Thank you.

● (1625)

The Chair: I have a question from the clerk.

[*Translation*]

Mr. Olivier Champagne: I need you to be more precise and tell me exactly where you want to insert those words.

Hon. Steven Blaney: Actually, they could be inserted at the beginning of the amendment. Let me read it in French: "Dans le cas de plaintes de harcèlement et de violence, le ministre termine l'enquête conformément aux délais établis par règlement suivant la date à laquelle la plainte lui a été renvoyée".

We want to ensure that, if people feel that their employer is laughing at them, at least the government will take them seriously.

[*English*]

The Chair: Seeing no further discussion, all those in favour of amendment CPC-6 please signify.

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: We're on amendment LIB-8.

MP Fortier.

[*Translation*]

Mrs. Mona Fortier: As a result of the testimony we have received, we want to strengthen the bill by proposing an amendment to make it possible for employees who previously worked for the government or elsewhere to be heard and recognized.

[*English*]

The Chair: Is there any further discussion?

Monsieur Blaney.

[*Translation*]

Hon. Steven Blaney: Mr. Chair, I feel the need to tell you that the bill seems to have lost its teeth because some very valuable amendments have been rejected. That said, this amendment can be valuable and we are going to support it, even though we are disappointed at the government's attitude.

Thank you.

[*English*]

The Chair: Thank you.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 5 as amended agreed to)

(On clause 6)

The Chair: We now have amendment LIB-9.

MP Fortier, please.

[*Translation*]

Mrs. Mona Fortier: Once again, this amendment is proposed in the interests of consistency with the text of the bill. So I will not explain further.

[*English*]

The Chair: Is there further discussion?

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: We are on amendment NDP-14.

Madame Trudel.

[*Translation*]

Ms. Karine Trudel: Investigations, especially those into sexual harassment, must be conducted by investigators who subscribe to a code of conduct and ethics. Our amendment NDP-14 proposes providing policy committees with a code of ethics covering the activities for which they are responsible. According to the internal policies set by employers, the activities of the policy committees can cover receiving complaints on workplace harassment and violence.

[*English*]

The Chair: Is there any further discussion?

(Amendment negatived [See *Minutes of Proceedings*])

(Clause 6 as amended agreed to)

(On clause 7)

The Chair: We now have NDP-15.

Is there discussion?

[*Translation*]

Ms. Karine Trudel: Amendment NDP-14 reflected a request by the Confédération des syndicats nationaux and the Ordre des conseillers en ressources humaines agréés du Canada. The intent was to provide health and safety policy committees with a code of ethics. Amendment NDP-15 is propsing exactly the same thing, but for local health and safety committees.

[*English*]

The Chair: MP Damoff.

Ms. Pam Damoff: I'm not exactly clear why this is needed. It would seem that the policy committee could determine their own procedures. I'm not clear on the benefit that this provides; within a workplace the committee does its own code of ethics.

● (1630)

The Chair: Is there any further discussion?

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: We go on to amendment NDP-16.

Just as a note, if it is adopted, amendments NDP-17 and LIB-10 could not be moved, given that there is a line conflict.

MP Trudel.

[*Translation*]

Ms. Karine Trudel: I will withdraw amendment NDP-16.

[*English*]

The Chair: The amendment is withdrawn.

We are on amendment NDP-17. Again, if it is adopted, amendment LIB-10 cannot be moved, as there would be a line conflict.

Is there discussion?

MP Trudel.

[*Translation*]

Ms. Karine Trudel: This amendment is intended to re-establish the participation of local health and safety committees in investigations of harassment and violence in the workplace, a role that they are playing very well today through the work of professional people and recognized techniques.

[*English*]

The Chair: Is there further discussion?

Mr. Blaney.

[*Translation*]

Hon. Steven Blaney: A number of witnesses have told us that, when cases of harassment occur in a unionized workplace, those who feel victimized can have access to additional resources if they wish. To the extent that the bill is intended to provide complainants with as many resources as possible, this is a constructive proposal and we are going to support it.

We have to remember that cases of harassment occur in any given environment. It is important for us as lawmakers to make sure that, if those who feel victimized feel they need support, they can get it.

[*English*]

The Chair: Thank you.

Is there further discussion?

MP Harder, please.

Ms. Rachael Harder: Thank you.

To my colleague's point, I do believe it's important that when an individual comes forward with a complaint or a concern, they be given the adequate level of support required. I wonder if a friendly amendment would be accepted that might strengthen this so that all parties could agree to it.

At the end, where it says, "participate in an investigation...relating to an occurrence of harassment or violence in the work place", it could continue to say, "unless the employee making the complaint requests the workplace committee participate".

What this would do is to free up the person who is making the complaint to have the additional support should they want it, but then they don't have to take it, which would maximize freedom.

The Chair: Okay.

MP Damoff.

Ms. Pam Damoff: There's nothing in the legislation that precludes an employee from going to their health and safety committee at any time if they want support. If there were two employees involved in a complaint and one did want it to go forward to a committee and one didn't, this legislation would hamstring it. For the reasons we gave previously about the challenges of privacy with health and safety committees, I don't think it would add to the support for employees who've experienced harassment or violence, and it could actually put them at a disadvantage when coming forward. As the officials said before, there may be a concern, especially if it were a....

I'll leave it at that.

The Chair: Thank you.

Is there further discussion? Seeing none, all those in favour of NDP—

● (1635)

Hon. Steven Blaney: Mr. Chair, I think we need to vote on the subamendment.

The Chair: Oh, I beg your pardon.

All those in favour of the subamendment to NDP-17?

(Subamendment negatived)

(Amendment negatived [See *Minutes of Proceedings*])

The Chair: On LIB-10, is there discussion?

Madam Fortier.

Mrs. Mona Fortier: Again, the next two are to align with the first amendment that we made.

The Chair: Okay. We'll have to deal with them separately here because we have a different clause.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 7 as amended agreed to)

(On clause 8)

The Chair: On LIB-11, I believe this is simply, once again, just for consistency and grammar.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 8 as amended agreed to)

(Clause 9 agreed to)

(On clause 10)

The Chair: On NDP-18, just to note, if adopted, LIB-12 cannot be moved as it would be considered a line conflict.

Madam Trudel.

[*Translation*]

Ms. Karine Trudel: This amendment is similar to amendment NDP-17, which sought to ensure that work place and policy committees are once again able to participate in investigations. The amendment before us seeks to ensure that occupational health and safety representatives are able to participate again. Those representatives should not be excluded from the investigation process either.

The amendment seeks to enable those representatives, just like the workplace committees, to continue to participate in investigations on incidents of harassment and violence in the workplace. They already successfully fulfill this role today. Their expertise cannot be ignored in the name of confidentiality. That makes no sense to us.

[*English*]

The Chair: Thank you.

MP Blaney.

[*Translation*]

Hon. Steven Blaney: We have heard a number of witnesses from various organizations insist that this provision be included in the bill. There are clear reasons for that. Based on a number of presentations I have heard, my understanding is that unionized employees who feel that they were victims of harassment can either go through the union, by filing a grievance, or use the procedure set out in the existing legislation.

The objective is always to protect those who want to file a complaint and to provide them with tools so that they don't feel crushed by the employer. We want them to have the choice to call on the representatives. If they decide to do so, it will be their choice. In this case, it is not possible to invoke privacy protection.

My fear is that the government officials may say that it is not clear whether the person can do this or not. That's exactly what I call a legal vacuum. Our role is to ensure that the complainants are protected by the legislation. In this case, the idea is to give them the opportunity to call on their representatives.

We are therefore going to support this amendment.

[*English*]

The Chair: Thank you.

Is there further discussion? Seeing none, I ask all those in favour of amendment NDP-18 to please—

[*Translation*]

Ms. Karine Trudel: I call for a recorded vote, please.

[*English*]

The Chair: Certainly.

(Amendment negatived: nays 5; yeas 4 [See *Minutes of Proceedings*])

The Chair: We are on LIB-12.

MP Fortier.

[*Translation*]

Mrs. Mona Fortier: It's once again a matter of consistency with the rest of the text. I hope that you are going to support this proposal.

[*English*]

The Chair: All those in favour of LIB-12 please signify.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 10 as amended agreed to)

The Chair: We are on clause 11 and LIB-13.

It's the same thing in terms of the grammatical alignment.

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 11 as amended agreed to)

● (1640)

Ms. Rachael Harder: Mr. Chair, there have been several times when I have raised my hand—

The Chair: I'm sorry.

Ms. Rachael Harder: —and have not been acknowledged by the clerk or you.

The Chair: Fair enough.

Ms. Rachael Harder: I had my hand raised on amendment LIB-13 before it went to a vote.

The Chair: Did you have a question?

Ms. Rachael Harder: I do. Thank you.

The committee has made a number of these amendments. I wonder whether the party or the member who has put these forward can answer this question for me.

We're changing the wording from "harassment or violence" to "harassment and violence". In my estimation, harassment and violence are two different things. It would be more permissive and more victim-centric if it were to say "harassment or violence", thereby allowing for either to be the case. Saying "harassment and violence" means that both have to be the case in order for the concern to come forward.

The Chair: I don't think that's the case, but—

Ms. Rachael Harder: I am looking for some clarification with respect to this language and our view that use of the word "and" strengthens this policy.

The Chair: We discussed this in the last meeting, but Dan, you had something to say.

Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.): That's exactly what I was going to say. We had this discussion previously and went to the officials and had a fulsome discussion. We passed it as it was, and are just amending it throughout the whole legislation.

The Chair: Ms. Harder.

Ms. Rachael Harder: Mr. Chair, perhaps I could ask the officials to explain this to me. I would just like to understand why this decision was made.

Thank you.

The Chair: I'm not sure it was—

Ms. Rachael Harder: Can you help me understand why the use of the word "and" would strengthen this legislation, as opposed to the use of "or"?

Ms. Barbara Moran: Maybe I'll just say that on Monday the amendment that was passed with regard to the definition was to define it as "harassment and violence". I don't have the wording in front of me with the definition. What that meant is that this needs to carry all the way through the bill, so that every time you see "harassment or violence" in the bill, in order to be consistent with the definition arrived at on Monday it has to be worded "harassment and violence".

Ms. Rachael Harder: Okay.

The Chair: It's not necessarily an issue of strengthening or weakening the legislation. It's an issue of consistency through the bill in terms of language. That's all it was.

Ms. Rachael Harder: Thank you, Mr. Chair. I understand the process and I understand that this decision was made on Monday. It still hasn't been communicated to me why we made that change, because we could have decided upon either one. We could have said "harassment or violence" throughout the entire bill, or we could have said "harassment and violence" throughout the entire bill.

The Chair: Again, it was the language that was used in the definition adopted on Monday, and just for consistency's sake, as Ms. Moran points out, it needed to be changed throughout the legislation.

Monsieur Blaney.

Hon. Steven Blaney: Mr. Chair, I was late on Monday because of the weather.

I agree with having consistency in the bill and I have no issue with that, but the fact of the matter is that this bill was introduced by the government with an "or", and now it says "and". My colleague is only asking why. It's a simple question that she politely requested an answer for.

The Chair: Just for clarification, the bill was not tabled with a definition, so the reason for the changes is as a result of what it says in the definition.

Ms. Rachael Harder: Thank you.

Can the officials perhaps help me understand the difference in legal terminology, if we use "and" rather than "or"? Does it make a difference?

Ms. Barbara Moran: I'm not legal counsel, but my own opinion is that the definition that was arrived at is meant to cover a continuum. It's that "harassment and violence" means.... What it means is that every time it shows up in the legislation, it's seen as along this continuum. In other words, the process is the same; there is no differentiation between an act of harassment and an act of violence. It's behaviour along this continuum of harassment and violence.

To reinsert the word "or" would be problematic for the flow of the legislation, because it would introduce the concept of harassment being a type of thing that is different from violence, whereas the definition that was arrived at on Monday is that it's a continuum of behaviour.

● (1645)

Ms. Pam Damoff: By way of clarification, I don't think we can go back to change clauses that have already been adopted, so if we were to change it, it would only be going forward.

Is that correct, that we can't go back and change clauses, so we would only be looking at it going forward?

Mr. Olivier Champagne: It requires unanimous consent.

Ms. Pam Damoff: Okay, but also I think it's important to take the meaning of this in the context of the entire definition: "harassment and violence" means "any action, conduct or comment", etc. I think it's important to take it in that context, that it's not referring to an act of harassment or violence, but is saying what harassment and violence actually are. In terms of this bill, "harassment and violence" means "any action, conduct, or comment, including of a sexual nature", and the definition is included in the bill now. That was a result of LIB-1 being adopted on Monday.

The Chair: Mr. Blaney.

Hon. Steven Blaney: My colleague is correct to say that we have adopted a definition that is about harassment and violence. Our party had introduced a motion whereby we had separate definitions for "harassment" and "violence", which was defeated on Monday by the government. That explains why now, because the government didn't want to have distinct definitions of "harassment" and "violence", we are caught with two words that don't have a distinction between them.

The Chair: Julie.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): I want to bring it back to the fact that it's a defined term. We actually made the definition in response to hearing from many witnesses that we needed a definition within the legislation. That's in fact what the amendment LIB-1 did, add a definition as requested.

"Harassment and violence" is a defined term, which then goes on. It's not as though you're adding in the words as they might be understood colloquially; it's a defined term that we added in by amendment LIB-1. That was in response directly to what we had heard from witnesses, just to clarify that point.

The Chair: Just to back up, we are dealing with LIB-14.

Dan.

Mr. Dan Ruimy: LIB-14 just introduces what we heard. One was that there should be a five-year review. I think our colleagues on the other side also agreed with that.

The one thing we're adding in here is that the report should also contain statistical data, because we know, and even heard from our officials today, how important that data is going to be to the review and the future and the regulations as they come forward. That will give us the flexibility to try to understand what's going on.

Thank you.

The Chair: Thank you.

Is there any further discussion?

MP Harder, please.

Ms. Rachael Harder: Thank you.

My colleagues and I will be supporting this and the reason is that it's a really great accountability measure. It means that the department run by the government of the day would have to come forward with a report, which I think is really good in terms of review and in being able to make sure that we make adjustments in the regulatory part as we move forward in order to better support employees.

The Chair: Thank you.

MP Blaney.

● (1650)

Hon. Steven Blaney: Mr. Chair, did you say that NDP-19 would be redundant with that one? If we voted for LIB-14, would NDP-19 become redundant?

The Chair: No, I don't believe so.

Hon. Steven Blaney: Okay.

The Chair: Yes, there's an overlap between the two. Correct, if this were adopted, we would likely make this inadmissible. Is there any further discussion?

All those in favour of LIB-14? Opposed?

(Amendment agreed to [See *Minutes of Proceedings*])

(Clauses 12 to 19 inclusive agreed to)

The Chair: We go to LIB-15. I believe that is by MP Fortier.

Mrs. Mona Fortier: It's the same thing. It's for consistency. It's technical.

The Chair: Is there any discussion?

(Amendment agreed to [See *Minutes of Proceedings*])

(Clause 20 as amended agreed to)

(On clause 21)

The Chair: We go to CPC-7.

MP Harder, please.

Ms. Rachael Harder: Thank you, Chair.

This amendment looks to take care of a concern that many witnesses brought forward. A lot of witnesses shared stories about being very fearful of bringing their stories forward to a supervisor. They would feel more comfortable if they had the opportunity to bring forward a concern directly to someone who is at arm's length from the process, or from their supervisor, or from the person who harassed them or committed a violent act toward them.

This amendment is being put forward to put in place a third party, or an individual who is at arm's length, to deal with a concern brought forward and properly address it in a way that looks out for the needs of the complainant or victim.

This amendment states that the process would be performed by the deputy minister of labour, instead of being in the hands of the minister. The minister would be mandated to not interfere in that process.

It's particularly important to look at the fact that this amendment only applies to the House of Commons act. As members of Parliament, we want to make sure that staff within Parliament have the opportunity to bring forward a concern when a violation takes place. Instead of having to go to the minister—who may potentially be partisan—let's remove that responsibility from the minister and put it in the hands of the deputy minister, who is a non-partisan, non-elected official. It would be up to the deputy minister to oversee the investigation, creating a sphere of safety for the victim coming forward to share his or her story and pursue an investigation.

This amendment is intended to remove the potential for political interference in what should be a non-partisan investigation.

It's important to note that I am speaking about this today not only because it the day the legislation is brought forward, but also because it's an amendment for all governments regardless of the party in power and the individual who holds the ministerial position or oversight over this department.

You'll recall that when the minister appeared before this committee, she said that all powers related to investigating harassment are delegated to her officials. This amendment simply codifies that existing practice by putting it within the legislation so that this is the ongoing practice, regardless of the government of the day. In other words, the practice today might be that the minister removes herself and puts herself at arm's length, but the practice of another government down the road might not be that. That's why it's important to make sure we're standing up for victims and creating a safe sphere for them by making sure the minister is not actively engaged in this process, but rather a third party or non-partisan individual. I would recommend that person be the deputy minister.

It is important to acknowledge that—if my memory serves me correctly—every witness who came forward to this committee said this was essential. I was at that table and made sure that I asked those witnesses about this, whether they felt the minister should be in this position or if they felt that it would be best put into the hands of a third party. I do believe every witness said it would be best put into the hands of a third party.

I would ask this committee to give consideration to this amendment in order to help strengthen it and make sure that it is not partisan in nature.

● (1655)

The Chair: Mr. Blaney is deferring to Madam Damoff.

Ms. Pam Damoff: Thank you, Chair.

We agree 100% with the intent of this. In terms of political staff, or the staff working for MPs, or in the Senate, or for ministers, the ability to remove whatever minister from whatever party is in power is important, and we did hear testimony to that effect.

We have alternative wording because the wording that has been presented is too broad. If you work in the Library of Parliament, for example, it would still be removed. We would be changing the situation.

The wording we would propose specifically talks about a member of the Senate or their staff, and a member of the House of Commons or employee. I can't amend this, so maybe I could get some direction from the clerk on how to do this, because if we defeat this, I'd like to introduce alternative wording. Our opposition to this amendment is not because we don't support the amendment's intent, but because we have better wording. We need direction from the clerk as to how to do this.

Mr. Olivier Champagne: There could be unanimous consent by the committee to withdraw Ms. Harder's amendment.

Ms. Pam Damoff: I suspect they want to see what's here.

Hon. Steven Blaney: Print the amendment then.

Mr. Olivier Champagne: It's probably too complicated to integrate into....

Ms. Pam Damoff: It is because it's a different subsection. It's proposed subsection 88.01(1). I'm happy to share this with you if you want to take a look at it.

Hon. Steven Blaney: We should—

Ms. Pam Damoff: The intent is definitely to remove the minister from any decisions that involve political staff. I think all parties are on the same page.

The Chair: Could I make a quick suggestion here? We will suspend for five minutes. We will share this document to see if we can come up with an agreement.

We're going to suspend for two minutes.

● (1700)

(Pause)

● (1705)

The Chair: All right, we're coming back to order.

MP Damoff.

Ms. Pam Damoff: Part of it is a procedural question—and I think I already know the answer because I went through this at the public safety committee. In order to introduce this, we either have to have the Conservative amendment withdrawn or defeated. Is that correct?

The Chair: Correct. There are two options here. We can either more forward and vote on CPC-7, and then from the floor you would introduce your amendment; or we could get unanimous consent to withdraw CPC-7, and then again you would move your motion.

Ms. Pam Damoff: It's up to the Conservatives how they want to proceed.

The Chair: MP Harder, please.

Ms. Rachael Harder: Mr. Chair, I would recommend one of two things.

One, I would agree to table my amendment temporarily to bring it back onto the table for consideration after we have considered the Liberals have brought forward. The other recommendation would be to take what has been put forward by the party opposite and to use it to amend the recommendation I brought forward in CPC-7.

The Chair: The clerk has instructed me that amending it is not necessarily possible. The two options that are before us are to go ahead and vote on CPC-7 or to ask for consent to withdraw CPC-7.

Hon. Steven Blaney: Mr. Chair, is there a third option, to suspend the amendment and go to this amendment beforehand and later on to see...?

The Chair: And then make sure this amendment goes through, and then—

Hon. Steven Blaney: And then we'll see.

The Chair: Understood.

It's not the norm, but we could ask for unanimous consent to table CPC-7. That would then open the floor to allow MP Damoff to bring forward her amendment. The reason we can't shelve it is that once we carry clause 21, it would be closed and we wouldn't be able to go back.

The other issue with shelving it, if in fact we unanimously consent to put aside CPC-7 and bring forward MP Damoff's amendment, and then in theory it is voted in favour of, is that we wouldn't be able to go back to CPC-7 because it would be redundant. In either scenario we wouldn't actually be dealing with CPC-7. Either it's withdrawn or it becomes redundant with the adoption of the amendment from the floor.

● (1710)

Hon. Steven Blaney: When Ms. Damoff's amendment is tabled, nothing prevents us from bringing other amendments to the table, but they would be deemed non-receivable if they touch on the same issue. Is that correct?

The Chair: The other technicality is that it's a different line in the bill, and it comes after the line that is in your amendment. It's out of order. We'd be moving to the next line in the bill where MP Damoff wishes her amendment to exist, so then going back would not be possible.

MP Damoff.

Ms. Pam Damoff: Your remarks have made me change what I was going to say.

If I introduce this by unanimous consent and it doesn't pass, could CPC-7 still be dealt with? You're saying that because it's later in the bill, it can't be dealt with.

I think that other than for a couple of words, we're in agreement on what we want to do.

The Chair: Instead of trying to be the intermediary here, I'm going to ask the clerk to explain it little better than I could.

Mr. Olivier Champagne: I will try to simplify things.

The amendment CPC-7 is before the committee. We have to do something with it right now. If we decide by unanimous consent to withdraw it, after LIB-16 is adopted or defeated, another amendment —the same one, if it's still in order, which it would not be—could be moved. The clause would still be open for other amendments provided they are consistent with any other amendments adopted, for instance LIB-16.

It's kind of a matter of semantics. Whether you say "withdrawn" or "tabled", it's deciding not to consider this amendment any more for now. If LIB-16 is adopted, then I don't think the chair will rule CPC-7 in order.

● (1715)

Ms. Pam Damoff: But this isn't—

The Chair: This would be LIB-16.

Mr. Olivier Champagne: Oh, I'm sorry, it's your amendment. I'm just looking at my sheet. Yes, it's your amendment.

Ms. Pam Damoff: This isn't LIB-16. This is something different, right?

Mr. Olivier Champagne: Yes, your amendment doesn't have a number right now. Let's call it LIB-15.1.

The Chair: Rachael.

Ms. Rachael Harder: I understand, Mr. Chair, that I am not able to amend my own amendment. Is that correct? I'm not able to do that.

However, a colleague of mine is able to do that. If a colleague were then to take my amendment and make the motion to get rid of the first line of my amendment, starting with "any power, duty or function of the Minister", and delete up until the end of that, and then, of course, leaving proposed (b) in place....

If another member of this committee were to do that and replace it with other wording that was presented by Ms. Damoff, that type of subamendment could be put forward, could it not?

The Chair: Those are two different lines, right?

The Clerk: I think we'd need to pause on that to—

The Chair: We'd have to pause again to see if that's possible, but I think there's an issue with its being two different lines of amendment. It depends on where it's going in the clause. I believe what we're suggesting is a different part of the clause.

Hon. Steven Blaney: Would it be agreed if I recommend—and I'm speaking to my colleague through you, Mr. Chair—to remove the first part of my colleague's amendment? I could table it.

Do you want me to remove this?

An hon. member: No.

Hon. Steven Blaney: Anyway, we'll find a way.

The Chair: We have to make a decision. We can withdraw. We can vote. We can unanimously consent to table, which is essentially....

MP Damoff.

Ms. Pam Damoff: I guess we've agreed that we're all okay with this wording; it's the process here.

If we can't come to a decision, do we vote on CPC-7 and defeat it, and then I'm able to introduce it?

The Chair: That's the action that I have in front of me, as chair. Anything else would have to be brought forward by Ms. Harder.

[*Translation*]

Hon. Steven Blaney: There are a lot of discussions about the procedure. I, for one, am going to talk about the amendment. Perhaps that will give you time to think about how to proceed.

I commend the members of the committee for wanting to ensure that they get things right. We know that the bill covers federal employees; the amendment does not deal with that. The amendment seeks to protect the integrity of the process and to avoid political or partisan interference, regardless of the government. As my colleague said, my colleagues opposite have an appetite for that.

Let me give you the best example. We want to make sure that, if an employee of the minister, wants to lodge a complaint for harassment, there will be no political interference. In this case, the investigation would stop at the deputy minister's office. That's the intent behind the motion.

The interesting part of this amendment is that it would apply to all the politicians. My colleagues may want to talk about it to determine whether it needs to apply to harassment and violence only or whether it needs to apply to all the provisions in Part II of the Canada Labour Code. There would be an interest in that.

When I was minister of Public Safety and Emergency Preparedness, I had to make decisions to protect the independence of the House from the executive power. In retrospect, I realize that this place is very important, that it's a sacred place, that it is important to maintain the legislative power independent from the executive power. Including harassment and violence is not just a detail. It must also be included in Part II of the Canada Labour Code, to always maintain this independence between the legislature and the executive.

As to how to achieve this, we are in the process of discussing it, but I think it is an important aspect. I am pleased to see that my colleagues opposite have an appetite for what I consider to be one of the most important amendments that can be made to this bill.

● (1720)

[*English*]

The Chair: Thank you, sir.

MP Damoff.

Ms. Pam Damoff: I know we're not discussing it, but one of the things we talked about.... There's no desire on our part to exclude other instances under the Canada Labour Code, so I think, with the advice of the officials when we get there, to say part II of the Canada Labour Code, including occurrences of "harassment and violence".... If we could get some advice from the officials on that when we get there, to make sure....

There's no intent to limit excluding the minister from these investigations at all. It's more to highlight the harassment and violence piece. There's no problem with including all of the Canada Labour Code and then just put wording including "occurrences of harassment and violence" if the officials think that that wording, or whatever wording they may like, is agreeable.

The Chair: I'm going to pull this back. You're referring to an amendment that we don't actually have in front of us yet, so we do need to make a decision on CPC-7. As I said, my tool at this point is to call for a vote.

MP Harder.

Ms. Rachael Harder: Mr. Chair, in good faith, the recommendation that is before us, the amendment that is before us by Ms. Damoff, will be changed to read "under Part II of the Canada Labour Code, including occurrences of harassment and violence". If that is deemed necessary, if we were to make that change to that amendment, and if, in good faith, we can come to an agreement on that, then I would agree to take my amendment off the floor.

The Chair: You would agree to withdraw it.

Ms. Rachael Harder: I would withdraw it.

The Chair: Thank you.

Just for clarification for MP Harder, I believe what MP Damoff has requested is some guidance from the departmental officials. Is that correct?

Ms. Pam Damoff: I think I have to introduce it first.

The Chair: Of course, but we're doing things out of order right now, so....

Ms. Pam Damoff: Do they have a copy of it?

The Chair: I want to make sure that we're clear, because we haven't seen the tabled amendment as of yet.

Go ahead, MP Damoff.

Ms. Pam Damoff: Can I get direction from officials on part II of the Canada Labour Code? What is your advice on the wording here and of removing the minister?

You do have a copy, right?

Ms. Barbara Moran: Yes.

Off the top, I'd suggest that you'd have to think about what the intention of this amendment is. If the concern is trying to address the potential for political interference, for example, is it relative to all of part II—what I'll call tripping hazards and things like that—or is it mostly limited to what C-65 is trying to address, which is harassment and violence? That would be off the top.

● (1725)

Ms. Pam Damoff: Does it actually matter? If it's a tripping hazard, does it matter if it's the minister or the deputy minister?

Ms. Barbara Moran: I would have to check and talk to folks.

Ms. Pam Damoff: Should we maybe suspend?

Hon. Steven Blaney: If I may, Mr. Chair, I'd like to answer Ms. Damoff.

I would say yes and no: no, because if you have a hazard issue in your office, it's not a big problem, but if the minister makes an inquiry into a political office, then this is a back door to do exactly the same kind of political interference. That's why my colleague is so adamant about building a firewall without a back door. This could be the back door: not necessarily harassment, but it could give a new power to the current or then minister to enter by a back door to go into a riding office or member's office and then be able to access some potentially sensitive information because of an inquiry. That's why my colleague is so adamant and why we believe this conversation is so important and has to be settled at the political level.

Thank you.

The Chair: I'll go to MP Damoff.

Ms. Pam Damoff: It was changed to the minister, though, when you were in government. This isn't adding it in this bill. It was already in there. We're not adding extra powers for the minister.

[*Translation*]

Hon. Steven Blaney: They are whispering in my ear that this bill is the first time that it applies to Parliament. That is why it's important to keep a firewall.

The problem is that the firewall is there only for harassment, not other issues. That may seem like a detail, but it would allow an ill-intentioned minister to meddle in a political office, regardless of their party. If the suggested amendment were passed, the minister would not be able to access it when it is related to politics.

[*English*]

The Chair: Okay.

[*Translation*]

Hon. Steven Blaney: I would like to add that these are small details, but, as you know, democracy is fragile, and as the saying goes, the devil is in the details. So I think it's an important aspect.

[*English*]

The Chair: We want to make sure we're doing this correctly, including procedurally correctly.

MP Damoff.

Ms. Pam Damoff: Could suspend for five minutes so that the officials can confer, and we can confer among ourselves.

The Chair: Sure, that sounds good.

Do I have unanimous consent that, when the bells start ringing shortly, we can continue for at least 15 minutes?

Some hon. members: Agreed.

● (1725)

(Pause)

● (1735)

The Chair: We have 25 minutes and 24 seconds until our vote. We'll try to use the next 10 minutes or so to the best of our ability.

MP Damoff.

Ms. Pam Damoff: Could the officials assist us in getting our intent into wording?

Our intent is that the minister be removed from involvement in anything to do with political staff. We thought we would do this using all of part II of the Canada Labour Code. If you have better wording, that's fine, too. Are there any unseen issues with its being part II of the Canada Labour Code?

The Chair: Ms. Moran.

Ms. Barbara Moran: I'm not a drafter of legislation. I don't have that background, so I wouldn't be able to recommend specific language to make the amendment you've brought forward apply to all of part II.

In response to your question, is there a material difference for the labour—

Ms. Pam Damoff: I know there is a material difference, but is there a problem?

Ms. Barbara Moran: Is there a problem with how it would operate practically? Not particularly. Under part II, currently, for example, the department is delegated those responsibilities. In practice, this legislative change would not make much of a difference for my colleagues in operations. It's a change in who ultimately has the power, but, in reality, it's all delegated down to the department.

Ms. Pam Damoff: Should we say, "under part II of the Canada Labour Code, including occurrences of harassment and violence", or should we say, "under part II of the Canada Labour Code involving a member of the Senate"? Or does that matter?

Ms. Barbara Moran: Again, I'm not a drafter. I don't know that you'd want to include those qualifiers, "harassment and violence" and so on.

Ms. Pam Damoff: We'll remove them, as long as they're included under part II of the Canada Labour Code.

Ms. Barbara Moran: I may have misunderstood your question.

This amendment says, "in relation to occurrences of harassment and violence"—

Ms. Pam Damoff: I want to change that, because we want to make it broader to include all of part II.

Ms. Barbara Moran: You want to take that out.

Ms. Pam Damoff: The only reason I wanted to put in "including occurrences of harassment and violence" was to highlight that those were included. But if it creates issues, it's fine to leave it under part II of the Canada Labour Code. I just want to make sure that violence and harassment are going to be caught. That's the most important part.

Ms. Barbara Moran: Yes, they would be caught. Even if you removed them, they would still be caught because they're caught under all of part II.

Ms. Pam Damoff: Let's take that out. It will read, "under part II of the Canada Labour Code involving a member of the Senate or their staff or a member", etc.

The Chair: What are we calling this?

● (1740)

Mr. Olivier Champagne: We're still on CPC-7.

A voice: [*Inaudible—editor*]

The Chair: She withdrew it, but I wanted clarification on what we could do. For the record, do you wish to withdraw CPC-7?

Ms. Rachael Harder: In good faith, I withdraw CPC-7.

(Amendment withdrawn)

The Chair: Thank you.

Now we have Liberal amendment 15.1 on what?

We haven't voted on anything—

Hon. Steven Blaney: I asked for a vote on LIB-15.1, which is Ms. Damoff's amendment.

The Chair: Thank you.

One moment, because we just want to make sure we name this correctly.

We're good? Okay.

MP Dabrusin had her hand up first, and then MP Harder, but we do have LIB-15.1 in front of us.

Go ahead.

Ms. Julie Dabrusin: I have LIB-15.1 in front of me and I appreciate that we now know that we're looking at 15.1 and that helps. We thank you for dealing with that procedural issue for us.

I'm trying to wrap my mind around this, because I think the intent around the table is very good and I agree with it. If we are doing something that affects the entire act—and I keep saying throughout —I get nervous about how it can play out. I'm just trying to make sure that when we do this, we're not suddenly creating hindrances in any other part of part II, for clarity's sake.

When we look at this, it's a carve-out just for political staff essentially, as defined at the bottom. I get two parts. It says "or their employees". We had a section about former employees. Do they get captured within that term "employees", based on the changes we've made?

The Chair: We have about 10 minutes left.

Mr. Bernard.

[*Translation*]

Mr. Charles Bernard (Director General, Portfolio and Government Affairs, Department of Public Works and Government Services): Those employees would be covered, because they work for the employer. According to the definition,

[*English*]

former employees would be covered in the same way.

Ms. Julie Dabrusin: Thank you, that's helpful just to make sure that we're making it consistent with everything else we're trying to do.

We're now looking at carving out the words "in relation to occurrences of harassment and violence". Do I have that correct? That would be the amendment there.

It works as far as when you're looking at how the delegated authority works. Am I correct? You don't see any challenge if, for example, someone trips going in? That's fine.

Do you see any potential challenges with any of those health and safety measures? I'm not an expert in the Labour Code. I keep getting nervous when we're starting to play around with different parts where I wasn't expecting to be. Is there anywhere you could see this being a problem, that suddenly we're looking at other types of potential injury claims they could fall within?

● (1745)

Ms. Barbara Moran: From a practical operational point of view, I don't see an issue, no.

Ms. Julie Dabrusin: And from a legal point of view?

Ms. Barbara Moran: No, I don't—

Ms. Julie Dabrusin: You said "practical and operational". I'm just....

Ms. Barbara Moran: Not that I'm aware of, no.

I'm not a lawyer.

The Chair: MP Harder.

You had your hand up at one point.

Ms. Rachael Harder: The amendment was put forward in its printed form, so may I move a subamendment? Is that what needs to happen to strike the one line we've discussed?

The Chair: We discussed it before it was moved—

Ms. Rachael Harder: Okay, so...

The Chair: He's considering the current form as the moved form with the appropriate....

Hon. Steven Blaney: Removal.

Ms. Rachael Harder: Changes. Awesome. Thank you.

The Chair: Yes.

Hon. Steven Blaney: I ask for the vote.

Ms. Pam Damoff: I have another question for the officials, though.

Is this change going to have any impact on any part of the legislation? I know you're not drafters, but is this going to have an impact on anything else if we remove those words later on in the legislation, or before, that we need to be aware of?

I don't really like drafting on the fly because I know this causes problems, but I know I've put us in this position.

Ms. Barbara Moran: Not that we're aware of.

Ms. Pam Damoff: Okay.

The Chair: I'd like to suggest we call the vote so that we can actually go and vote in the House.

We're voting on LIB-15.1 in its form as it was tabled—

Mr. Robert Morrissey (Egmont, Lib.): In its form as it was tabled?

The Chair: —which includes the removal of "in relation to occurrences of harassment and violence".

Ms. Dabrusin.

Ms. Julie Dabrusin: I would suggest that you get us a written copy of the way it looks now so that we have the official copy, and then we go to vote in the House, and then come back. We're coming back either way, but we've got a few more clauses to go through.

The Chair: Fair enough. We can do that. Agreed?

Okay, we're going to suspend, and hopefully we'll all be back here shortly.

● (1745)

(Pause)

● (1825)

The Chair: Welcome back, everybody.

We have in front of us LIB-15.1 and I believe we are ready to move forward. Okay. Does everyone have a copy of the new amendment?

Yes?

● (1830)

Ms. Pam Damoff: Can I get a recorded vote, Chair?

The Chair: Certainly, there will be a recorded vote on LIB-15.1.

(Amendment agreed to: yeas 9; nays 0 [See *Minutes of Proceedings*])

The Chair: Very good, everybody. That was an important one to get right. Thank you.

We're on LIB-16.

Mr. Ruimy.

Mr. Dan Ruimy: This is similar to the five-year timing, but it's just connecting all the dots and making sure all the different departments are following the same thing.

A voice: That's a good explanation.

Mr. Dan Ruimy: Thank you.

The Chair: Is there any discussion?

Mr. Blaney.

Hon. Steven Blaney: Again, I find this amendment constructive. I also tabled amendment CPC-8 and I believe that the first part would be redundant but that the second part—maybe we can get there once we've dealt with this motion—would still add to the bill.

Yes, I support this motion presented by Mr. Ruimy.

The Chair: Thank you.

Is there any further discussion of LIB-16?

(Amendment agreed to [See *Minutes of Proceedings*])

The Chair: Shall clause 21 carry as amended?

(Clause 21 as amended agreed to)

(Clauses 22 to 24 inclusive agreed to)

The Chair: We go to amendment CPC-8.

Monsieur Blaney.

Hon. Steven Blaney: Yes, Mr. Chair, I would remove the first proposed subsection in my amendment and I would ask for your advice through the clerk on the second, that "The report stands referred to the committee of the Senate, of the House of Commons or of both Houses of Parliament that is designated or established to review matters related to occupational health and safety."

I believe that would still be a good element to have in the bill to make sure that for a committee like ours in the near future, not only the House, it would be up to the committee to decide whether they go through it or not, but at least the report would be referred to them.

I would like any advice from the clerk.

[*Translation*]

Mr. Olivier Champagne: Your amendment mentions an independent review, which is not the case for amendment LIB-16. There would be an overlap or redundancy if amendment CPC-8 were passed, but the review would probably be different, given that it's independent.

It is up to you to decide how you want to present your amendment. You can introduce it with changes, but the wording must be clear.

From a procedural point of view, I told the chair that the amendment could be accepted as is.

Hon. Steven Blaney: Unlike what I'm proposing, Mr. Ruimy's amendment suggests that the act be reviewed by the minister.

I would like to withdraw the first part of my amendment and only keep the second part. Actually, based on what you are telling me, I must withdraw it fully in this case, because of the report on the independent review.

Mr. Olivier Champagne: Yes, the second part could not stand on its own.

Hon. Steven Blaney: So I'll drop my amendment.

[*English*]

The Chair: Amendment CPC-8 is withdrawn.

Now we're into the fun stuff.

Shall the title carry?

Some hon. Members: Agreed.

The Chair: Shall the bill, as amended, carry?

Some hon. Members: Agreed.

The Chair: Shall I report the bill, as amended, to the House?

Some hon. Members: Agreed.

The Chair: Shall the committee order a reprint of the bill, as amended?

Some hon. Members: Agreed.

The Chair: That's all she wrote.

Before we adjourn, I would just like to thank everybody involved in this piece of legislation. This has not been an easy piece of legislation to deal with. Thanks go specifically to those who helped us along the way. The government officials and the folks to my left and right essentially had to create systems to do what we wanted to do in order to study this properly, and so I think they deserve our thanks for that.

Some hon. Members: Hear, hear!

The Chair: I'm very pleased that we've been able to strengthen this bill, and I'm looking forward to seeing it proceed to the Senate.

Thank you very much, everybody.

The meeting is adjourned.

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